LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7509 | **NOTE PREPARED:** Jan 10, 2011
BILL NUMBER: HB 1469 | **BILL AMENDED:**

SUBJECT: Local Government Issues.

FIRST AUTHOR: Rep. Torr | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL | **IMPACT:** State & Local
X DEDICATED
FEDERAL

Summary of Legislation: This bill has the following provisions:

County Fiscal Body: It specifies that after December 31, 2012, in each county: (1) the county fiscal body is the fiscal body and legislative body of each township in the county; and (2) the county fiscal body shall exercise the legislative and fiscal powers assigned in the Indiana Code to township boards, including the authority to adopt the township's annual budget and to levy township property taxes for township funds.

Township Trustees and Assessors: The bill requires a public question to be placed on the November 2012 general election ballot in each county regarding whether the voters want to abolish the township trustee and (if applicable) the township assessor. It provides that if a majority of voters in a county approve the public question, all township governments in the county are eliminated and the powers and duties of the: (1) township regarding township assistance, cemeteries, and weeds are transferred to the county executive; and (2) township assessor are transferred to the county assessor; on January 1, 2014.

Township Budgets: It also specifies that for township budgets adopted for 2012 and 2013, the total amount appropriated for a particular year may not exceed the result of: (1) the total amount appropriated for the previous year; multiplied by (2) the assessed value growth quotient applicable to the township for the particular year.

Public Funds: The bill provides that public funds from any source may not be expended by a political subdivision or by the state to promote a position on the public question, and prohibits certain other actions by a political subdivision or the state in promoting a position on the public question.

Marion County - General Township Duties: The bill provides that if a majority of voters in Marion County approve the public question, the responsibilities of the township trustee and township board concerning township small claims court are transferred to the: (1) Mayor of the consolidated city; (2) City-county Council of the consolidated city; and (3) Clerk of the Circuit Court.

Small Claims Court Constable: The bill abolishes the Office of Small Claims Court Constable in Marion County. It specifies that on January 1, 2014, personnel provided by the Department of Public Safety of the consolidated city shall perform the duties formerly performed by the constables.

Fire District: The bill specifies that in counties (other than Marion County) that approve the local public question concerning elimination of township government, a fire protection district is established on January 1, 2014, in the unincorporated territory of each township. It specifies that such a fire protection district: (1) shall not be established in the territory of a township that is already included in a fire protection district as of January 1, 2014; (2) shall not have a board of fire trustees; and (3) shall have a single fire trustee appointed by the county executive. The bill provides that the county fiscal body shall by ordinance set the salary of a fire trustee in the county, and that the salary of a fire trustee shall be paid by the county.

Marion County - Fire Protection: The bill provides that if the local public question is approved in Marion County, each township fire department that has not previously been consolidated is consolidated into the fire department of the consolidated city on the earlier of a date set by executive order of the county executive or January 1, 2014. It also provides that, not later than January 1, 2014, each fire department within a county must enter into a mutual aid agreement with one or more other fire departments within the county.

Transfers from a Township to the County: The bill provides that a transfer of powers and duties between a township and the county results in the transfer of that township's property, equipment, personnel, records, rights, contracts, and indebtedness.

Appropriation Limits: The bill provides that if a township board or (after December 31, 2012) a county fiscal body determines after a public hearing that the township cannot carry out its governmental functions for a year under these appropriation limitations, the county fiscal body may appeal to the Department of Local Government Finance (DLGF) for relief from the appropriation limitations for the year.

Township Assistance: The bill provides that if a township trustee or county trustee does not: (1) accept a completed application for township assistance; or (2) grant or deny a completed application for township assistance within the period required by law; the application is considered denied, and the denial may be appealed.

Township Assistance Planning Board: The bill establishes a township assistance planning board (board) in each county. It provides that the board shall propose, for adoption by the county fiscal body, township standards that apply to all townships effective January 1, 2013. It specifies that in counties that approve the local public question, the board also prepares a county plan for delivery of township assistance services that: (1) must be approved by the county executive and county fiscal body; and (2) takes effect January 1, 2014.

The bill also provides that after December 31, 2013, in counties that approve a local public question, a county trustee administers township assistance in the county in accordance with the county plan.

Capital Funds: The bill specifies that, when formulating a proposed annual budget estimate for 2013 and thereafter, the township executive and the county fiscal body shall, with regard to a township capital improvement fund or cumulative building fund, consider the township capital improvement plan. It provides that after December 31, 2012, a township may collect property taxes for a capital improvement fund in a particular year only if the township trustee prepares and the county fiscal body approves a proposed or amended capital improvement plan in the immediately preceding year.

Marion County Board of Commissioners: The bill abolishes the Marion County Board of Commissioners effective July 1, 2011.

Office of Management and Budget: The bill requires the Office of Management and Budget to annually prepare a report that includes certain information regarding each township, and it requires the report to be submitted to the Executive Director of the Legislative Services Agency and to county councils.

Office Location: The bill specifies that an office of a political subdivision must include the address, phone number, and regular office hours (if any) of the office in at least one local telephone directory. It requires a public meeting or a public hearing of an official or governing body of a political subdivision to be held in a public place.

Detailed Expenditure Listing: It requires the annual report of a county, city, town, or township to list separately each expenditure that is made to reimburse the executive of that unit for the executive's use of real and personal property for public business, including any reimbursements made for the use of a private residence, personal telephone, or personal vehicle for public business.

Nepotism: The bill specifies that an individual who is a relative of an officer of a political subdivision may not be employed by the political subdivision. It provides that an individual who is a relative of an employee of a political subdivision may not be employed in a position in which the individual would have a direct supervisory or subordinate relationship with the employee who is the individual's relative. The bill also specifies that until January 1, 2012, this provision does not require the termination or reassignment of an employee from a position held by that individual before July 1, 2011. It prohibits a political subdivision from entering into or renewing contracts with certain individuals or firms.

Annual Reports: The bill provides that the annual report filed by a political subdivision with the State Board of Accounts (SBOA) must include a statement by the executive officer of the political subdivision certifying that the political subdivision is in compliance with the nepotism provisions. It provides that if the political subdivision is not in compliance: (1) the executive officer may be subject to prosecution for perjury; and (2) DLGF may not approve the political subdivision's budget or additional appropriations for the ensuing calendar year until the SBOA certifies to the DLGF that the political subdivision is in compliance.

It also provides that the DLGF may not approve the budget or any additional appropriations of a political subdivision that fails to file: (1) an annual fiscal report; or (2) a personnel report; for the preceding year.

Election of an Employee: The bill provides that an employee of a political subdivision is considered to have resigned from employment with the unit if the employee: (1) assumes the elected executive office of the political subdivision; or (2) becomes an elected member of the political subdivision's executive, legislative, or fiscal body. The bill makes this provision apply to an employee of a political subdivision who assumes an elected office after June 30, 2011. It provides that in the case of an individual who, on June 30, 2011, holds an elected office of the political subdivision that employs the individual, the individual may continue to hold that elected office and simultaneously be an employee of the political subdivision until the end of the term of office in which the individual was serving on June 30, 2011. The bill specifies that this provision does not prohibit an employee of a political subdivision from holding an elected office of a political subdivision other than the political subdivision that employs the employee.

Conflict of Interest: The bill provides that a member of a board, commission, committee, council, or any other body with the responsibility of administering the affairs of a unit may not participate in a decision or vote of the body if the member: (1) has a pecuniary interest in; or (2) derives a profit from a contract, purchase, sale, employment, or other transaction connected with the unit. It also prohibits a member from participating in a decision or vote involving the merger, consolidation, or reorganization of the unit's functions or services, if the member is also an employee of a unit involved in the merger.

The bill requires a member to: (1) disclose a pecuniary interest or profit in writing to the governmental body that the member serves on; and (2) provide a copy of the disclosure to the state board of accounts.

County Chief Executive Officer: The bill provides that in counties other than Marion County, the county executive may adopt an ordinance providing that the voters of the county shall elect a single county commissioner as the chief executive officer of the county and a county council that has the legislative and fiscal powers and duties of the county. It provides that such an ordinance may be adopted only during an odd-numbered year or before July 1 of an even-numbered year. It specifies that if such an ordinance is adopted unanimously, the county's government structure shall be changed as provided in the ordinance.

The bill also specifies that if such an ordinance is adopted, but not unanimously, the county's government structure shall be changed as provided in the ordinance only if the change is approved in a referendum by county voters. It provides that in a county with a single county chief executive officer: (1) the initial county chief executive officer is elected in the second general election after the ordinance to change the structure of county government is approved (if unanimous) or the change is approved in the referendum; (2) the board of county commissioners is abolished; and (3) the membership of the county council continues under existing law.

Township Schools: The bill provides that if a school township exists in a township in which a public question to eliminate township government is approved, the school township shall reorganize under the school reorganization statutes before January 1, 2014. It provides that school board members selected by election must be elected at general elections beginning in 2012. It repeals provisions related to the election of school board members at the primary election.

Interim Study Committee on Township Assistance: The bill establishes the Interim Study Committee on Township Assistance reform to study: (1) the base level of township assistance that a township or county should be required to provide; and (2) changing references to "township assistance" in the Indiana Code to "emergency assistance".

Effective Date: Upon passage; July 1, 2011.

Explanation of State Expenditures: *Interim Study Committee on Township Assistance:*. The Interim Study Committee on Township Assistance is to operate under the policies governing study committees adopted by the Legislative Council. Legislative Council resolutions in the past have established budgets for interim study committees in the amount of $9,500 per interim for committees with fewer than 16 members and $16,500 per interim for committees with 16 members or more. [The number of members is not specified in the bill.]

Office of Management and Budget (OMB): The bill may increase costs for the OMB to prepare and report on township annual reports with additional information. Under current law, the township provides information on fund balances to the SBOA. This information is compiled into a report at the SBOA main office using support staff. Under the bill, a township is to prepare any information required by the report and not currently reported on the schedule established by the SBOA.

Department of Local Government Finance (DLGF): The bill is expected to have minimal fiscal impact for the DLGF when reviewing township budgets, tax rates, and tax levies in order to consider the ending balance, and to receive appeals from townships.

Penalty Provision: A township trustee would be subject to being convicted for perjury, a Class D felony, for falsely certifying that the township is in compliance with nepotism provisions established under the bill. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately $4,818 annually, or $13.20 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

<u>Explanation of State Revenues:</u> *Financial Report Reporting Date:* Every local government unit, entity, or instrumentality is required to submit a financial report to the State Examiner. The penalty for failing to make, verify, and file with the State Examiner is a Class B infraction and forfeiture of office. The date for making the report changes from 60 days after the end of the fiscal year to March 1 of each fiscal year under the bill.

There are no data to indicate how the date change will impact the number of reports outstanding. The maximum judgment for a Class B infraction is $1,000, which would be deposited in the state General Fund.[In 2010, for counties, townships, cities and towns, libraries, and special districts subject to this provision, there were 373 (16.3%) that did not submit a report, 1,475 (64.6%) that submitted the report on time, and 435 (19.1%) that submitted the report late. The State Board of Account (SBOA) does not take action against local officials due to technical problems that the SBOA is in the process of promulgating rules to address.]

Penalty Provision: If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is $10,000. However, any additional revenues would likely be small.

<u>Explanation of Local Expenditures:</u> The bill will have indeterminate fiscal impact on county and township government with some provisions potentially adding cost and others potentially creating cost savings. Some provisions of the bill will apply to all counties and townships throughout the state, while others will apply only to counties where voters choose to eliminate township government, and still others will apply only within Marion County.

<u>Additional Information -</u>

<u>Provisions that Apply to All Counties:</u>

County Fiscal Body: The bill will increase costs for counties by making the county fiscal body the township fiscal and legislative body. County councils may require additional meeting time to establish budgets, consider resolutions, and adopt plans for capital improvements. However, cost savings may result from the elimination of the three-member township boards in counties outside of Marion County.

Nepotism: The nepotism prohibitions would have indeterminate fiscal impact if employees must be terminated or reassigned. The compensation costs differences between the cases where family members are providing services and a independent party provides the service will determine if there are additional costs or cost savings.

Township Budgets: Under current law, the levy for a controlled fund may grow at the rate of the income-based assessed value growth quotient (AVGQ). Budget appropriations, however, are only limited to the total funding that is available. Under the bill, a township's total budget appropriation (including additional appropriations) for CY 2012 and CY 2013, would be limited to the previous year's appropriation plus growth equal to the AVGQ. Current estimates for the AVGQ are 2.8% in both CY 2012 and CY 2013. A township that cannot function under the appropriation limitations imposed by the bill may appeal to the DLGF for relief.

Total CY 2010 appropriations in all township funds were $415 M in 91 counties with available data (excluding LaPorte County). The average annual increase in budget appropriations from CY 2005 to CY 2010 was 1.57%. There were 524 townships with growth above 2.8%. This provision could reduce the appropriations in some townships as compared to the appropriations under current law.

Other Provisions: The to hold public meetings in public places could minimally increase costs, as may the requirement to list each expenditure reimbursing a city or town executive for use of the executive's tangible property.

Penalty Provision: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Provisions that Apply Upon Vote of County or Action of a County Body:

County Chief Executive Officer: In counties other than Marion County, the fiscal impact of a county's governing structure being a single county executive officer instead of a county commission will depend on decisions of the county council in setting executive compensation. No current county executive or legislative responsibility is reduced or eliminated but are rather reassigned from a three-member board of county commissioners to a single elected chief executive, which could potentially change the compensation costs for these positions. Executive compensation is determined by the county fiscal body, and any cost savings will result from the decisions of the fiscal body. Officers are compensated from the county general fund. The average salary for county commissioners in 2009 (for 67 counties reporting) was $22,200, with a salary range between $4,800 and $65,300.

A position similar to the single elected county executive may be a city mayor, and similar compensation may be earned by a county executive, depending on the decisions of the county fiscal body. For the 61 cities reporting, there is a strong correlation between mayor salary and population size when the city population is large (and Indianapolis is excluded) or below 38,000. For middle-sized cities, correlation is not as strong, but still exists. The following table shows the city population range and the average mayor compensation and compensation range.

City Population Range	Average Mayor Salary	Mayor Salary Range
95,707 - 255,890	$100,262	$88,021- $123,600
40,308 - 76,545	$84,580	$67,893 - $112,762
6,014 - 37,517	$57,635	$32,748 - $75,000
Source: US Census, *Table 4. Annual Estimates of the Resident Population for Incorporated Places in Indiana: April 1, 2000 to July 1, 2009*; Indiana Association of Cities and Towns.		

Township Trustees and Assessors: Cost saving may accrue from any management efficiencies created by a county administering township government. While savings will accrue to township residents, the county fiscal body, which fixes the compensation of officers, may increase compensation for county legislative and fiscal bodies or county executives that undertake additional responsibilities from the township trustee. [The median township trustee salary among the 537 township with available data (including Marion County townships) is $7,500, ranging from $505 to $84,240.]

There are 13 township assessors in Indiana whose duties would transfer to the county assessor upon approval of a public question on January 1, 2014. If the county assessor can provide the assessor services more efficiently than the township assessors, the taxpayers in the township would accrue savings and the county may incur some additional personnel expense to meet the increased workload.

Township Assistance Planning Board: The nine-member board (or 10-member in counties with a single county executive officer) will develop annual standards for township assistance throughout the county. The plan, which be approved by the county fiscal body, will include whether township assistance will be provided by a county workforce or by contract. The compensation of the board will be determined by the county fiscal body.

County Trustee: In a county where townships are abolished, the county executive will appoint a county trustee to administer township assistance with the duties and powers of a township trustee, including the ability to employ staff and operate township assistance offices in the county.

Fire Districts: A county executive would appoint a single fire trustee rather than a board of fire trustees for a fire protection district in the unincorporated areas of township that is abolished. The fire trustee has the rights, powers, duties, and responsibilities of a board of fire trustees for a fire protection district. The salary of the fire trustee is paid by the fire district.

Township Assistance: The decision to deny township assistance may be appealed to the circuit court in the county. Under current law, the appeal is made to the county board of commissioners.

School Township: A school township will incur additional costs to hold public hearings to discuss methods of reorganizing and develop a plan as required under current state statute concerning organization of school corporations. [There are three school townships in Indiana.]

<u>*Provisions that Apply in Marion County:*</u>

County Board of Commissioners: In Marion County, the county treasurer, auditor, and assessor comprise the county board to make certain appointments, exercise powers concerning the issuance and payment of bonds, and to exercise powers granted in the Indiana Constitution. The county officials serve as Commissioner exofficio, meaning that they do not receive compensation specifically for serving on the Board. However, the City-county Council in setting compensation for these officers, could change their salary based on required responsibilities.

Consolidation of Fire Departments: Five township fire departments have merged or plan to merge with Indianapolis Fire Department under current law provisions for voluntary consolidation. According to an audit of the mergers, for the five-year period 2006 to 2010, fire protection costs increased 9.8% in the consolidated townships, while costs in the other townships (including townships that will be merging) increased 18.9%. Combined staffing levels for the consolidated townships is 2.7% less than prior to consolidation and 17 (27%) of management positions have been eliminated. The table below shows the fire-related fund expenditures by township. In addition to these common funds, Franklin Township spent $624,692 from the Fire Building Debt Fund and Warren spent $21,291 from its Fire Pension Fund.

2009 Fire-Related Fund Expenditures

Township	Date of Consolidation	Fire Protection Fund	Cumulative Fire Fund	Fire Debt Fund
Center		0	0	0
Decatur		10,135,770	384,064	567,882
Franklin	7/1/2010	22,858,438	233,758	72,980
Lawrence	1/1/2011	19,115,189	943,921	0
Perry	8/1/2009	32,318,486	2,149,987	0
Pike		25,756,385	1,935,866	6,196,723
Warren	7/1/2007	1,988,573	1,923,534	0
Washington	1/1/2007	0	0	0
Wayne		45,180,600	448,185	0

Source: Township 2009 Annual Report, Part 3A.

Marion County Small Claims Courts: If the county approves the public question, the judges of the small claims court will continue to be elected to a four-year term of office. The County Auditor will provide clerks for the small claims courts.

Judge Salaries: Full-time and part-time judge salaries are to be determined by the City-County Council. Judge salaries are payable in 12 equal monthly installments.

Clerks: Judges with the approval of the City-county Council are to determine the small claims clerks' salaries and the minimum salary continues to be $5,600.

Constables: On January 1, 2014, the Department of Public Safety is to provide adequate personnel to provide services currently provided by the constable and to act as bailiffs of the court, and all assets, debts, property rights, equipment, records, and contracts will transfer to the executive. The executive’s designee, six months prior to the end of the constable's term of office, is to begin the transition process and report to the executive on progress. The Department of Public Safety is to provide adequate personnel to act as bailiff of the court, serve processes, carry out orders of the court, and prepare and mail all registered or certified service. [Constables are currently paid from the service of process fee, which is $13, whether delivered in person or by certified mail.]

Explanation of Local Revenues: *County Assistance Fund:* The county fiscal body is to estimate the total cost of township assistance throughout the county for the following year and adopt a uniform county tax rate after 2013 to meet the estimated costs. The taxes levied for township assistance are to be placed in the fund, and the money in the fund is to be used to pay the expenses and obligations set forth in the annual budget. Drugs and vaccines provided to indigents are to be paid through the county's township assistance fund. Money in the fund at the end of the year does not revert to the county general fund.

Annual Reports: The annual appropriation and annual tax levy for a township may be affected by the bill, if the township fails to file its annual report or personnel with SBOA, or falsely certifies it is in compliance with nepotism provisions. If the township's annual appropriation and annual tax levy remain unchanged increased costs may not be covered.

Penalty Provision and Financial Report Reporting Date: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

Marion County Small Claims Court Fees: Court fees will remain unchanged, but will be paid to the county general fund, township small claims courts account. Fees collected for court administration and judicial salaries are to be deposited in the county general fund in an account for each small claims court. At the end of the fiscal year, any funds remaining in the account may be used for public safety programs as determined by the city-county council. After December 31, 2014, 40% of the court administration fees are to be used for the operation of small claims courts. In 2009, Marion County small claims courts generated a total of $4.5 M, including $1.5 M in state funds, $123,000 in county funds, and $2.9 M in local funds. The local funds would instead go to the county under the bill. Additionally, in 2009, Marion County small claims courts received $574,000 for serving process by certified mail and almost $1.1 M for service of process by personal service. These amounts are to be paid directly to the constables.

State Agencies Affected: DLGF, OMB, SBOA.

Local Agencies Affected: Counties and townships.

Information Sources: 2009 township annual reports available at in.gov/itp.

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